

1 (Whereupon, the following
2 proceedings were public record.)

3 JUDGE MORAN: And Mr. MacBride will question
4 further.

5 CONTINUED CROSS-EXAMINATION

6 BY

7 MR. MACBRIDE:

8 Q. If you refer to Attachment A to the report
9 of Management, Section 5 which starts on Page 28.
10 And I think this has probably been covered, but
11 just to make certain.

12 Section 5 lists a total of 15 exceptions
13 which you have categorized as "In the process of
14 being corrected," correct?

15 MR. BRIAN HORST: That's correct.

16 Q. And that's as of January 17, 2003,
17 correct?

18 MR. BRIAN HORST: That's correct.

19 Q. And as of today, do you have any
20 additional information as to whether any of these
21 15 exceptions have, in fact, been corrected?

22 MR. BRIAN HORST: As of today, I understand

1 that there's a number of them that have been in
2 the process of being corrected, but we have not
3 yet tested, and I don't believe the Company's
4 reported them yet.

5 Q. Okay. What's the source of your
6 understanding?

7 A. The source of my understanding is the
8 dates that are provided in here as to when those
9 items were going to be implemented.

10 Q. In this case, I think in November of last
11 year, SBC filed a notice that they would be
12 filing your report in this docket.

13 And when that notice was originally
14 filed stated that your report would be filed on
15 or about December 22nd?

16 MR. BRIAN HORST: That's correct.

17 Q. Were you aware of that?

18 MR. BRIAN HORST: That's correct.

19 Q. An obviously, your report was not
20 completed and filed until January 17, 2003?

21 MR. BRIAN HORST: Yes.

22 Q. Is there any particular reason why the

1 completion date was delayed from the originally
2 announced date?

3 MR. BRIAN HORST: Yes. We weren't complete
4 with our procedures at that time.

5 MR. MACBRIDE: Thanks. That's all the
6 questions we have.

7 JUDGE MORAN: Thank you very much.

8 JUDGE KERN: Tom Rowland.

9 JUDGE MORAN: As I understand it, there are no
10 written questions for Mr. Rowland. These will
11 all be oral and not too long

12 CROSS-EXAMINATION

13 BY

14 MR. ROWLAND:

15 Q. Good afternoon. My name is Tom Rowland.
16 I represent Forte Communications and CIMCO
17 Communications.

18 A lot of the questions I'm going to ask
19 you refer to you Attachment A, which I understand
20 is Affidavit Q in the filing; is that correct?

21 MR. BRIAN HORST: Yeah, I don't have the
22 affidavit in front of me. So I don't know if

1 it's Q or not, but I understand what you're
2 referring to.

3 Q. Okay. The first area of questions I want
4 to get to is an area that I'm not sure it's
5 necessarily covered by performance measure.
6 That's one the questions I want to get to.

7 But there are different forms of
8 rejections of orders, but the particular one I'm
9 referring is invalid rejections.

10 Do you know that term?

11 MR. BRIAN HORST: Yes.

12 MR. DAN DOLAN: Yes.

13 Q. Let me ask the question up front, is there
14 a performance measure that goes directly to
15 invalid rejects?

16 MR. BRIAN HORST: To our knowledge, there's
17 not.

18 We wanted to go through and check some
19 of the desegregation to make sure.

20 Q. Okay. That's fine.

21 Let me ask you in terms of the
22 observations you made and the process you went

1 through, did you observe a process, if one
2 exists, to make sure that an 865 reject of an EDI
3 translation was correct or invalid and whether it
4 was created due to a software defect in
5 Ameritech's code?

6 MR. BRIAN HORST: We will get back to you in
7 writing on that particular question.

8 MS. BLOOM: Do you have these in writing? It
9 would help?

10 MR. ROWLAND: I can give you a couple of
11 these.

12 MS. BLOOM: Okay.

13 BY MR. ROWLAND:

14 Q. Let me ask you just generally, did you
15 look at 865 rejects?

16 MR. BRIAN HORST: Yes. On the specific
17 question we'll get back to you in writing on
18 that.

19 Q. Okay. And I've heard you describe the
20 process by which you conducted your analysis
21 earlier, but and this may be sort of a follow up
22 to the same line of questioning I just started,

1 but did you manually analyze any rejected orders
2 to verify if they were rejected legitimately or
3 in error?

4 MR. BRIAN HORST: Again, we will get back to
5 you in writing on that one.

6 Q. Okay. Separate from what you did in the
7 process you used, do you know if SBC has a
8 process for detecting invalid rejects?

9 MR. BRIAN HORST: Again, we'll get back to you
10 in writing on that.

11 Q. Along with that same line, if you know
12 whether SBC has a process for measuring invalid
13 rejects?

14 MR. BRIAN HORST: Okay.

15 Q. Now, if we go and talk about a few items
16 in your Attachment A or your Attachment B, which
17 I think you indicated is the same as Affidavit Q,
18 that's not proprietary in itself, correct?

19 MR. BRIAN HORST: That's correct.

20 Q. I may have cause to refer to one of your
21 binders, Binder A. And my understanding is the
22 notes in there -- actually, the whole document is

1 proprietary?

2 MS. BLOOM: Anything that's got a Bates number

3 on it.

4 JUDGE KERN: Tom, are you going into

5 confidential material now?

6 MR. ROWLAND: Let me make that determination.

7 JUDGE MORAN: All right. You let me know.

8 BY MR. ROWLAND:

9 Q. If you go to Attachment A, Section 1,

10 No. 28. And I think Section 2, also number 28.

11 The area of questions I have really goes to line

12 loss notifications.

13 Do you see that?

14 MS. BLOOM: Is the question: Do we see that

15 in both of those items?

16 MR. ROWLAND: Yes.

17 MR. BRIAN HORST: Yes, I do.

18 BY MR. ROWLAND:

19 Q. Did you observe the process that Ameritech

20 employs for line loss notifications in terms of

21 the information that goes out to CLECs?

22 Did you review that territory?

1 MR. AARON TERRY: Yes. It's an electronic
2 process. So we actually obtained a file that was
3 used in that process.

4 I mean, it's not necessarily a manual
5 process.

6 Q. Okay. In one of items there is a
7 reference to re-sent line loss notifiers,
8 correct?

9 MR. AARON TERRY: (Shaking head up and down.)

10 Q. That is implying, and I think more than
11 implies that there are oftentimes instances where
12 line loss notifiers don't get through for
13 whatever reason and they have to be re-sent again
14 and again; is that correct?

15 MR. AARON TERRY: Can you restate that
16 question one more time?

17 Q. That the whole idea of a re-sent line loss
18 notification is that it didn't get through the
19 first time or second time. It has to be re-sent?

20 MS. WENDY BLOOM: Is your specific question --

21 MR. AARON TERRY: So are you asking if this
22 specific issue right here related to that

1 specific process?

2 Q. Right.

3 MR. AARON TERRY: I do not believe that
4 specific issue related to that specific process.

5 Q. In which one are you relating to there?

6 MR. AARON TERRY: This specific issue related
7 to a series of line loss notifications that were
8 sent without the actual identification, the TNS
9 -- WTN with circuit ID. So it did relate to
10 that, but it was a specific number of
11 transactions in a specific period.

12 Q. Okay. Just so I'm clear, in looking at
13 Roman Numeral Exceptions I, No. 28, it does refer
14 there to question of not correctly counting the
15 interval for re-sent time line loss
16 notifications, correct?

17 MR. AARON TERRY: Yes, these actual
18 transactions were re-sent and the measure time
19 was, as far as the stopped calculation on the
20 time in which these transactions were re-sent --
21 these specific transactions were re-sent.

22 Q. And do you know how many times -- you're

1 probably talking about multiple orders. But do
2 you know how many times we are talking about
3 re-sending them?

4 MR. BRIAN HORST: This was a specific issue,
5 and we can't speculate on the number that had
6 been re-sent.

7 Q. So this was a particular instance?

8 MR. BRIAN HORST: Yes.

9 Q. And I think you indicated earlier that,
10 and I'm paraphrasing your own words, but you
11 didn't go to a CLEC and look at their operations
12 as to sending in or receiving, or in this case
13 not receiving any line loss, right?

14 MR. AARON TERRY: That's right.

15 MR. BRIAN HORST: Yes.

16 Q. I wanted to ask about the difference
17 between your Attachment A and Attachment B and
18 what was provided as part of your work papers.
19 And I don't want to go into the details of work
20 papers. We don't have to go into camera for
21 this, but Attachment N, I think it is in your
22 work papers, looks like, essentially, the same

1 document.

2 MS. BLOOM: As what either Attachment A or B?

3 MR. ROWLAND: As Attachment A, for instance.

4 MS. BLOOM: Do you have the page number for

5 Attachment N so we can see it?

6 MR. ROWLAND: Yes, I do.

7 MR. DAN DOLAN: Is that the affidavit?

8 MS. BLOOM: Brian, he's showing it to you.

9 Can you hold that up.

10 MR. ROWLAND: (Complying.)

11 MR. BRIAN HORST: That is Attachment A with ER

12 numbers added to it, to the column.

13 BY MR. ROWLAND:

14 Q. Okay. That's what I thought, but I wanted

15 to -- so the ER numbers are in cross-reference to

16 the particular performance measure and issue

17 that's raised in the Attachment A essentially?

18 MR. BRIAN HORST: Yes. Yes.

19 Q. With respect to the ERs, those are

20 enhancement requests, correct?

21 MR. BRIAN HORST: Yes.

22 Q. Earlier in questioning, I think by one of

1 the attorneys, you indicated that there's analyst
2 of ERs. I didn't understand that.

3 MR. BRIAN HORST: Yeah, what we did as part of
4 our subsequent events is the Company has an ER
5 database where they go through, and they indicate
6 issues -- or not issues, they indicate plan
7 changes regarding systems, documentation changes,
8 a variety of things.

9 And what we've done as a subsequent
10 event to our testing is we went through there and
11 looked for anything that they were changing
12 subsequent to our period that may have impacted
13 March, April, or May.

14 MR. DAN DOLAN: Subsequent to our testing
15 period, but before the issuance date of our
16 report, okay. So all that work was encompassed
17 in our January 17, opinion date.

18 Q. Okay.

19 MR. DAN DOLAN: Or report date.

20 Q. Just so I'm clear, I have, for instance,
21 your notes which are Binder A. We have Binder H
22 as well which include some of your notes and

1 response of SBC.

2 And I have this document, Attachment N,
3 with the ER numbers on it. Is there anything
4 else that explains each of these ER numbers or is
5 it just -- is the ER number nothing more than a
6 reference tool?

7 MR. BRIAN HORST: That is a reference tool,
8 yes.

9 (Whereupon, there was a
10 change in reporters.)

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1 (change of Reporters.)

2 Q. So there is no document with a particular
3 ER number?

4 MR. BRIAN HORST: That has been provided?

5 Q. That exists.

6 MR. BRIAN HORST: Yes. They're certainly
7 within the Company's databases, they have ER
8 numbers with associated --

9 MR. KEVIN GRAY: The ER numbers are tracking
10 changes. So to the extent that they are changing
11 something, there is an associated ER number.

12 Q. Okay. And, then, if, in fact, the ER
13 refers to an actual document or set of documents
14 or Company process, did you review that as part
15 of your determination whether a particular issue
16 in Attachment A is still problematic or not?

17 MR. BRIAN HORST: I believe you asked in
18 testing the corrective action, did we review the
19 ER that the Company had out there.

20 Q. Mm-hmm.

21 MR. BRIAN HORST: As we discussed earlier, we
22 identified the ER, we identified the actual

1 program code change that actually took -- was
2 implemented and we focused on going and looking
3 at the actual change to the code rather than on
4 the ER process.

5 So what we did is, we tested changes to
6 the underlying program code as well as perform
7 transaction testing to verify that the change
8 went into place.

9 Q. Okay. And just so I'm clear, in going
10 back to -- if I picked any one of these ER
11 numbers, are there associated documents
12 associated with each of those numbers?

13 MR. BRIAN HORST: We have -- for each issue in
14 our report or corrective action has been
15 implemented, we would have work papers, the
16 documents, the corrective action performed, and
17 how we tested it. The ER numbers would be
18 included on those documents; B but those are
19 Company references, the ER.

20 Q. Ernst & Young provided work papers
21 associated with particular areas of your
22 analysis. You provided responses to questions

1 from, I think, AT&T and from some other CLECs.
2 Do you know whether the Errs associated with some
3 of the tears in Attachment N are the same
4 documents as those work papers that you provided?

5 MR. BRIAN HORST: We, as of this point have
6 not provided any documentation related to
7 corrective action testing.

8 Q. And is that because it's not finished yet
9 or is it or --

10 MR. BRIAN HORST: No, it's not because it's
11 not finished yet. It was requested -- there were
12 documents requested on Saturday of this week that
13 we were in the processing of pulling together and
14 what we provided.

15 Q. And I think we've asked for those as well?

16 MR. BRIAN HORST: Yeah.

17 MR. DAN DOLAN: Were you one of the persons
18 that participated in the phone call Saturday?

19 MR. ROWLAND: Yes. Thank you. I just wanted
20 to understand how that operates. Thank you.

21 Q. Before I forget, I just want to go back to
22 this line loss notification. What was the

1 process used to analyze line loss notifications,
2 you know, what did you actually review and --

3 MR. BRIAN HORST: We can provide that to you.

4 Q. Can you turn to your Attachment A, Section
5 2, No. 16, please. And this refers to percentage
6 of orders given jeopardy notices within 24 hours
7 of the due date; is that correct?

8 MR. BRIAN HORST: That's correct.

9 Q. Do you know what a PIA is, provider
10 initiated activities?

11 MR. BRIAN HORST: I'm not familiar with that
12 term.

13 Q. Can you check to see if part of your
14 process in terms of the analysis that you did on
15 ordering included -- did you come across PIAs as
16 part of either rejections or jeopardy notices?

17 MR. BRIAN HORST: We will verify that.

18 Q. A simple way of cutting through this is a
19 PIA is sometimes referred to an 865 transaction.

20 MR. BRIAN HORST: Okay.

21 MS. BLOOM: Is that the same question as did
22 we look at 865 rejects that you've already asked?

1 MR. ROWLAND: It's a little bit different, but
2 the earlier question I was going to give to you
3 in writing --

4 MS. BLOOM: What's the difference then if it's
5 the same thing?

6 MR. ROWLAND: Whether, in fact, you were
7 getting -- if you were reviewing orders and, I
8 mean, you tell me what you looked at what,
9 whatever process you used; but if you were seeing
10 the notation of PIA on some of your -- the.

11 MS. BLOOM: The actual term PIA?

12 MR. ROWLAND: Right.

13 BY MR. ROWLAND:

14 Q. And the reason is -- I'm curious on our
15 part is that, if, in fact, someone doesn't get a
16 jeopardy notice, if a CLEC doesn't get a jeopardy
17 notice or if there's official rejection, an
18 order, it might be a situation where a CLEC
19 doesn't know something's hanging in limbo, either
20 there's been a decision made, there's a
21 rejection -- that's the way it's supposed to
22 work -- or it goes through and if you don't have

1 the notice -- if the CLEC doesn't have the notice
2 then you would never know and an order may be
3 hanging in limbo, a better word.

4 MR. BRIAN HORST: Okay.

5 Q. With respect to the issue of USOGs and I
6 think there was some discussion of this earlier
7 today, maybe by Staff, but if you could look at a
8 Attachment A, Section 3 I believe it's No. 2. In
9 terms of reviewing in valid USO -- here it's
10 talking about USOG rates, did your process
11 involve looking at whether a particular rate
12 appeared in a tariff or in a --

13 MR. BRIAN HORST: That's similar to the
14 question asked by WorldCom that we're going to
15 get back to in writing.

16 Q. That is going to be one of the written
17 answers, okay. That's fine. I was going to ask
18 you about the process you used at looking at
19 performance measure 7 and 8; but earlier today
20 when there was questions from the ICC Staff, I
21 had understood, and correct me if I'm wrong, that
22 there are a number of performance measures that

1 are still outstanding in terms of your analysis
2 and 7 and 8 were part of that, I believe, 13 was
3 another one?

4 MR. BRIAN HORST: No. I think your reference
5 was -- there was a discussion regarding -- where
6 the Company initially implement corrective
7 action. We found issues with that. The Company
8 subsequently went back and corrected it and when
9 we went back and retested, we didn't have issues.

10 Q. And 7 and 8 were part of that?

11 MR. BRIAN HORST: Yes.

12 Q. In your analysis and I'm not sure it would
13 necessarily be just in this area, performance
14 measure 7 or 8, it might be broader than that, if
15 you look at your Attachment A, Section 5, No. 12,
16 did EY come across the circumstance where SBC may
17 not have sent out completion notices or, in fact,
18 sent out completion notices to a CLEC but
19 facilities were still not available, do you know?

20 MR. BRIAN HORST: What issue were you
21 referring us to?

22 Q. This is on Roman numeral 5, No. 12?

1 MR. BRIAN HORST: Maintenance?

2 Q. Mm-hmm.

3 MR. BRIAN HORST: The particular issue here

4 related to the fact that UNE-P was not able to be

5 disaggregated in the measurement.

6 Q. So this is sort of a higher level --

7 MR. BRIAN HORST: Yes.

8 Q. -- process you're looking at?

9 MR. BRIAN HORST: Yes.

10 Q. Do you know whether in your analysis you

11 came across situations where completion notices

12 were inaccurate?

13 MR. BRIAN HORST: We would have to go back and

14 take a look at the work papers and see if we have

15 anything like that.

16 Q. Okay. Some of my questions were asked

17 earlier today, so I don't want to go over that

18 again. If you could look at your Attachment A,

19 Roman numeral 2, I think it's page 21, on both

20 numbers 42 and 43 these are billing performance

21 measures I gather. At the end of both 42 and 43

22 you say No restatement is possible. What do you

1 mean by that?

2 MR. BRIAN HORST: That's the Company's
3 statement but what is meant by that is the data
4 is not available because it was a process change
5 to make a restatement.

6 Q. Say that again?

7 MR. BRIAN HORST: The data is not available to
8 make a restatement.

9 Q. And when you say "the data is not
10 available," is the data not available because
11 it's a different time period or they haven't
12 retained the data?

13 MR. BRIAN HORST: We'll get back to you in
14 writing on that one.

15 Q. I was seeing if I could decipher what I
16 thought were E&Y notes to make it clear, maybe
17 I'd better wait and see what you do.

18 Could you tell me whether in analyzing
19 orders that may have been rejected for any reason
20 or did not flow through if there was any
21 indication on Ameritech's part -- SBC
22 Ameritech -- that an order could not go through

1 because the CLEC could not assume that
2 particular -- say, this was a change of service
3 provider -- could not assume that customer?
4 MR. BRIAN HORST: We can certainly check on
5 that.
6 MS. BLOOM: What was that? Because the CLEC
7 couldn't what?
8 MR. ROWLAND: Couldn't assume -- because SBC
9 Ameritech would assert that the CLEC could not
10 assume that particular customer.
11 JUDGE MORAN: What do you mean by "assume,"
12 Tom? It's throwing me off.
13 MR. ROWLAND: Another way of saying it would
14 be, if there's a bundle services -- loop and
15 something else and the response might come back,
16 You can't have all of those with that bundle;
17 therefore, you can't assume the contract,
18 basically, is what it is.
19 JUDGE MORAN: Okay. So you can't take -- you
20 can't have the order as is?
21 MR. ROWLAND: Right.
22 JUDGE MORAN: Is that what you're saying,

1 because of some feature on it or something?

2 MR. ROWLAND: Right. Right.

3 BY MR. ROWLAND:

4 Q. If you'd like I can put that one in

5 writing.

6 MR. BRIAN HORST: That's fine.

7 MS. BLOOM: Yeah. That one and the very

8 first -- maybe the second question you asked, not

9 just did we look at 865 rejects but there was a

10 whole long question about 865 rejects.

11 MR. ROWLAND: Right. I can put that in

12 writing for you. Thank you.

13 BY MR. ROWLAND:

14 Q. Earlier this afternoon there was a

15 question about the integrity of the data and I

16 think mention was made of, if any collusion was

17 detected. If SBC became aware that orders were

18 coming in -- as part of the testing process that

19 BearingPoint did there was a pseudo CLEC,

20 correct?

21 MR. BRIAN HORST: Correct.

22 Q. If SBC were aware that the orders coming

1 in were not any old CLEC but were, in fact, a
2 pseudo CLEC, would you have known that?

3 MR. BRIAN HORST: No.

4 Q. I think I may be done. One second.

5 Earlier Mr. MacBride asked you some
6 questions about Attachment A and the format for
7 how that was used or setup. If you look at -- I
8 said Attachment A, I meant binder A. If you look
9 at Binder H, this will look like a different
10 format. Can you explain that -- without going
11 into detail, can you explain why this is a
12 different format than what we were talking about
13 before?

14 MR. BRIAN HORST: It shouldn't be.

15 Q. If you could pull up Binder A and H and
16 look at them simultaneously.

17 MS. BLOOM: What's the Bates number on H?

18 MR. ROWLAND: It starts at 2301.

19 MR. BRIAN HORST: Binder H is the analytical
20 review procedure we performed. Binder A is the
21 master issues list.

22 Q. So for Binder H, you have the performance

1 measure, you've got an index of numbers. Are
2 those the same as the ER numbers or is that a
3 different numbering system?

4 MR. BRIAN HORST: That is the sub major
5 identified.

6 Q. And then you have --

7 MS. BLOOM: Brian, let me just caution you,
8 we're not in camera right now, so if any of these
9 questions get specific --

10 MR. ROWLAND: I was trying to not ask anything
11 substantive. It was just the format.

12 BY MR. ROWLAND:

13 Q. Then there's a question, is that your
14 question or who's question is that?

15 MR. BRIAN HORST: Yes that's Ernst & Young's
16 question.

17 Q. And then there's an assigned PM resource,
18 that's just somebody at one of the companies?

19 MR. BRIAN HORST: That's correct.

20 Q. And a response, is that SBC Ameritech's
21 response?

22 MR. BRIAN HORST: Yes.

1 MR. ROWLAND: So I think I understand. Thank
2 you. That's all the questions I have. I
3 appreciate it.

4 MR. KERN: Does anybody else have any
5 questions for EY?

6 MR. MacBRIDE: Judge, Mr. Healy and I --

7 JUDGE MORAN: Hold on. Tom, will you work
8 with Miss Bloom and give her written questions
9 for anything she hasn't been able to take down.

10 Owen, yes, I'm sorry, I interpreted you.

11 MR. MacBRIDE: Mr. Healy and I were talking
12 about TDS advance questions 2 and 3 while
13 Mr. Rowland was questioning and if we could just
14 ask a few more follow up questions we may be able
15 to dispense with needing responses to those.

16 JUDGE MORAN: Okay. Great, why don't you come
17 up.

18 MR. MacBRIDE: I'll let Mr. Healy come up.

19 MR. TOWNSLEY: While we're waiting for
20 Mr. Healy to get up there. I do have the
21 WorldCom confidential questions printed out for
22 the court reporter and Mr. Young.

1 JUDGE MORAN: Great. Thank you, Mr. Townsley.

2 JUDGE MORAN: Okay. We will be going in
3 camera because as Mr. Kern informs me this was
4 related to confidential questioning. And
5 Mr. Healy will be questioning.

6 (Whereupon, the following
7 proceedings were had in camera.)

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